

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COMMISSIONER OF COMMERCE

In the Matter of the Certificate of
Exemption of Aaron Oquist, Individually
and d/b/a Aaron Oquist Roofing,
Certificate of Exemption Number
20145721.

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

The above-entitled matter came on for prehearing conference before Administrative Law Judge Steve M. Mihalchick on April 25, 2000, at 3:00 p.m. at the Office of Administrative Hearings, 100 Washington Avenue South, Minneapolis, Minnesota. Sarah Walter, Assistant Attorney General, Suite 1200, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, appeared on behalf of the Department of Commerce ("the Department"). There was no appearance by or on behalf of Respondent Aaron Oquist. Respondent's last known address is 26380 Rum River Drive, Isanti, Minnesota 55040. The record closed upon this matter upon the close of the prehearing conference on April 25, 2000.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact the Commissioner of Commerce, 133 East Seventh Street, St. Paul, Minnesota 55101, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUES

The issues in this case are whether the Respondent Aaron Oquist failed to satisfy three compliance orders from the City of Brooklyn Center constituting negligent performance or breach of contract in violation of Minn. Stat. § 326.91, subd. 1(4), demonstrated conduct that constitutes incompetent, untrustworthy or financially irresponsible conduct in violation of Minn. Stat. § 326.91, subd. 1(6), and failed to appear at a conference as ordered by the Commissioner in violation of Minn. Stat. § 45.027, subd. 1(a).

FINDINGS OF FACT

1. The Notice of and Order for Hearing and Notice of Prehearing Conference in this matter was served upon the Respondent by certified U.S. mail on March 17, 2000, at his last known address.

2. The Notice of and Order for Hearing and Notice of Prehearing Conference served on Respondent contained the following informational notice in bold-face type:

If Respondent fails to attend or otherwise appear without the prior consent of the judge at any prehearing conference, settlement conference, or hearing in this matter, or fails to comply with any interlocutory order of the judge after having been served with a copy of this Order, Respondent shall be deemed in default and the allegations or issues set forth herein may be deemed proved, and Respondent's Certificate of Exemption may be revoked or suspended, Respondent may be censured and/or a civil penalty may be imposed against Respondent without further proceedings.

3. Respondent did not file a Notice of Appearance with the Administrative Law Judge or make any request for a continuance or any other relief. Respondent failed to appear at the prehearing conference scheduled on April 25, 2000, nor was an appearance made on his behalf.

4. Because Respondent failed to appear at the hearing in this matter, he is in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice of and Order for Hearing are hereby taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Minnesota Department of Commerce and the Administrative Law Judge have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50 and 45.027.

2. The Department has given proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law and rule.

3. Respondent, having made no appearance at the hearing and not requesting any continuance or relief, is in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice of and Order for Hearing are hereby taken as true.

4. Respondent demonstrated negligent performance or breach of contract in violation of Minn. Stat. § 326.91, subd. 1(4) by failing to satisfy three compliance orders from the City of Brooklyn Center.

5. Respondent engaged in incompetent, untrustworthy or financially irresponsible conduct in violation of Minn. Stat. § 326.91, subd. 1(6), by failing to correct the defects found in the three compliance orders and by failing to respond to the Commissioner's request for information.

6. Respondent failed to comply with a Commissioner's Order to Appear at a conference in violation of Minn. Stat. § 45.027, subd. 1a.

7. Respondent is subject to discipline and civil penalties pursuant to Minn. Stat. § 45.027, subds. 6 and 7, and the imposition of sanctions is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED that the Commissioner of Commerce take disciplinary action against the Respondent and impose appropriate civil penalties.

Dated May 22, 2000

STEVE M. MIHALCHICK
Administrative Law Judge

Reported: Default.

NOTICE OF AGENCY DECISION

Under to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.